

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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**JOAN T. SCHRADER,**

**Plaintiff,**

**v.**

**5:08-CV-119  
(FJS/VEB)**

**COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

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**APPEARANCES**

**OLINSKY & SHURTLIFF**  
300 South State Street, Suite 520  
Syracuse, New York 13202  
Attorneys for Plaintiff

**OF COUNSEL**

**HOWARD D. OLINSKY, ESQ.**

**SOCIAL SECURITY  
ADMINISTRATION  
OFFICE OF REGIONAL  
COUNSEL, REGION II**  
26 Federal Plaza – Room 3904  
New York, New York 10278  
Attorneys for Defendant

**MARIA P. FRAGASSI SANTANGELO, ESQ.**

**SCULLIN, Senior Judge**

**ORDER**

When a party does not object to a magistrate judge's report and recommendation, the court reviews that report and recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, \*10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify, in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Bianchini's November 4, 2010 Report and Recommendation for clear error and manifest injustice; and, finding none, the Court hereby

**ORDERS** that Magistrate Judge Bianchini's November 4, 2010 Report and Recommendation is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

**ORDERS** that Plaintiff's motion for judgment on the pleadings is **GRANTED**; and the Court further

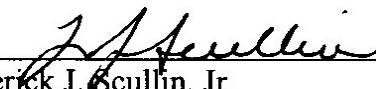
**ORDERS** that Defendant's motion for judgment on the pleadings is **DENIED**; and the Court further

**ORDERS** that Defendant's decision is **REVERSED** and this case is **REMANDED** to the Commissioner of Social Security pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings for the reasons set forth in Magistrate Judge Bianchini's November 4, 2010 Report and Recommendation; and the Court further

**ORDERS** that the Clerk of the Court shall enter judgment in favor of Plaintiff and close this case.

**IT IS SO ORDERED.**

Dated: December 27, 2010  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Court Judge